

# A Legal Study of the Dynamics of the Determination of the Age Limit of Candidates for President and Vice President by the Constitutional Court in Indonesia

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## ABSTRACT

The determination of age limits for presidential and vice-presidential candidates in Indonesia has been the subject of debate in legal and public circles. This research uses comprehensive analysis to explore the legal dynamics surrounding the age eligibility criteria for this high executive office, focusing on judicial interpretations, public perspectives, and policy implications. By examining constitutional provisions, judicial interpretations, public discourse and scholarly works, this research sheds light on the complexities and implications of age-limit provisions in Indonesia's electoral system. The findings contribute to a deeper understanding of the legal, political and social dimensions that shape age eligibility criteria and their implications for democratic governance.

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## 1. INTRODUCTION

Eligibility criteria for presidential and vice-presidential candidates in Indonesia, including age limits, are an important component of the democratic framework. Indonesia's constitutional provisions regulate these requirements, which aim to ensure fair and transparent elections. Citizenship requirements for candidates are aligned with global standards, which emphasise non-discrimination and clarity [1]. In addition, Presidential term limits aim to prevent the consolidation of absolute power, reflecting Indonesia's commitment to democratic principles and preventing incumbents from being in power for too long [2]. The

appointment of Deputy Ministers has sparked debate due to perceived political favouritism, highlighting the importance of transparency and efficiency in government appointments [3]. These regulations and processes underline Indonesia's ongoing efforts to uphold the principles of good governance in its democratic system [4].

The determination of age limits for presidential and vice-presidential candidates in Indonesia involves complex legal, political, and social considerations. The Constitutional Court plays a pivotal role in interpreting and adjudicating constitutional provisions related to eligibility for public office, including age requirements. Research highlights the Court's authority in reviewing laws against the

constitution, resolving disputes over state institutions' powers, and deciding election result disputes [5]. Additionally, the study on citizenship requirements for candidates emphasizes the importance of clear and non-discriminatory constitutional regulations, positioning Indonesia's provisions favorably compared to other countries [6]. Furthermore, discussions on the presidential threshold reveal public sentiments on candidate opportunities and parliamentary support, reflecting the broader societal perspectives on eligibility criteria [7]. These dynamics underscore the significance of the Constitutional Court's decisions in shaping the landscape of presidential and vice-presidential candidacy in Indonesia.

This research embarks on a normative analysis to explore the legal dynamics surrounding the determination of the age limit for candidates vying for the presidency and vice presidency in Indonesia. By adopting a normative approach, this study seeks to delve into the underlying principles, constitutional interpretations, and judicial reasoning guiding the Constitutional Court's decisions in this domain. Through a comprehensive examination of relevant legal sources, including constitutional provisions, legislative enactments, jurisprudence, and scholarly works, this research aims to elucidate the evolution, controversies, and implications of the Court's rulings concerning the age eligibility criteria for presidential and vice presidential candidates.

## 2. LITERATURE REVIEW

### 2.1 Constitutional Framework and Legal Analysis

Legal scholars have extensively examined the constitutional framework governing the age limit for presidential and vice presidential candidates in Indonesia. The 1945 Constitution sets out certain citizenship requirements for candidates, ensuring non-discrimination and clarity in eligibility criteria [8]. Scholars have criticised proposals to extend the presidential term, emphasising the importance of maintaining a two-term limit to prevent authoritarianism and abuse of power

[5], [9]. In addition, research into changes to the marriage age limit in Indonesia highlighted the unintended consequences of amending the law, such as an increase in child marriages despite the original intention to protect women's rights [7], [10]. These analyses underline the importance of constitutional principles and legal considerations in shaping governance and society.

### 2.2 Judicial Interpretations and Jurisprudence

The Constitutional Court in Indonesia plays a pivotal role in legal discussions, particularly regarding age limit determinations for presidential and vice presidential candidates. Landmark decisions by the Constitutional Court have significantly influenced legal debates and scholarly analyses [8], [11]. Scholars like Mahfud MD and Yusril Ihza Mahendra have conducted detailed examinations of the Constitutional Court's jurisprudence and its implications for Indonesia's constitutional governance [12]. The Court's authority includes reviewing laws against the Constitution, deciding disputes over state institutions' powers, resolving election result disputes, and even dissolving political parties [13]. This jurisprudence not only shapes legal discourse but also impacts the democratic index and citizens' constitutional rights, especially during challenging times like the COVID-19 pandemic [14].

### 2.3 Comparative Perspectives and International Standards

Comparative studies on age limit provisions in Indonesia and other countries have contributed significantly to scholarly discussions. These studies have revealed variations in age eligibility criteria for executive positions globally, shedding light on the underlying reasons for such differences. Scholars like Tom Ginsburg and Ran Hirschl have delved into the comparative aspects of age limit provisions, offering valuable perspectives on how these provisions impact democratic governance. Indonesia's legal landscape, as explored in various research papers, reflects the complexities and implications of age limit

regulations within the broader context of legal and political frameworks [7], [9], [15]–[17].

#### **2.4 Societal Perspectives and Public Discourse**

Public discourse in Indonesia extends beyond legal frameworks to encompass societal perspectives on presidential and vice presidential candidate eligibility criteria. Scholars have delved into the implications of citizenship requirements [5], term extensions, and election postponements [2], as well as the contentious issue of presidential thresholds [8]. Media analysis has highlighted the role of mass media in shaping public opinion during elections [6], while critical discourse analysis has scrutinized the portrayal of political figures, such as former first lady Ani Yudhoyono, in online news media [18], [19]. These varied perspectives, ranging from legal analyses to media commentaries, contribute to a nuanced understanding of how socio-cultural factors influence public perceptions of age and leadership in Indonesian society.

### **3. METHODS**

#### **3.1 Methodological Approach**

The research adopts a normative analysis approach to explore the legal dynamics surrounding the determination of the age limit for candidates seeking the presidency and vice presidency in Indonesia. Normative analysis involves the critical examination of legal norms, principles, and values to assess their coherence, consistency, and applicability in the context of constitutional governance. By employing a normative approach, this research seeks to elucidate the underlying legal principles, constitutional interpretations, and judicial reasoning guiding the Constitutional Court's decisions regarding age eligibility criteria for presidential and vice presidential candidates.

#### **3.2 Data Collection**

The research draws upon a diverse range of primary and secondary data sources to inform its analysis. Primary data sources include relevant constitutional provisions, legislative enactments, and jurisprudence issued by the Constitutional Court of Indonesia. Secondary data sources encompass

scholarly works, legal commentaries, policy analyses, and media reports pertaining to age limit provisions for presidential and vice presidential candidates. The comprehensive nature of data collection ensures a nuanced understanding of the legal dynamics and societal implications surrounding age eligibility criteria in Indonesia's electoral system.

#### **3.3 Analytical Techniques**

The research employs qualitative analytical techniques to interpret and analyze the collected data. Qualitative analysis involves the systematic examination of textual, conceptual, and contextual elements to derive insights, identify patterns, and assess relationships within the data. Analytical techniques include thematic coding, content analysis, and comparative synthesis, enabling the identification of key themes, arguments, and perspectives across legal sources and scholarly works. Through qualitative analysis, the research seeks to uncover the evolution, controversies, and implications of the Constitutional Court's decisions regarding age eligibility criteria for presidential and vice presidential candidates.

### **4. RESULTS AND DISCUSSION**

This section presents the findings of the research, followed by a comprehensive discussion that contextualizes the results within the broader legal, political, and societal landscape of Indonesia.

#### **4.1 Constitutional Framework and Age Limit Provisions**

The analysis of the constitutional framework governing age limit provisions for presidential and vice presidential candidates in Indonesia reveals several key findings.

Firstly, Article 6A of the 1945 Constitution establishes the minimum age requirement for individuals seeking the presidency and vice presidency. The provision stipulates that candidates for these high executive offices must be at least 35 years old at the time of their nomination. This constitutional provision reflects the framers' intent to balance the need for experienced

leadership with principles of democratic representation and inclusivity.

Secondly, subsequent amendments to the Constitution have further clarified and reinforced age eligibility criteria for presidential and vice presidential candidates. While the original text of Article 6A set the minimum age requirement without specifying the exact age limit, subsequent amendments have codified the age limit at 35 years old. These amendments have provided legal certainty and clarity regarding the age eligibility criteria for individuals aspiring to hold the highest executive offices in Indonesia.

Thirdly, the Constitutional Court of Indonesia has played a crucial role in interpreting and adjudicating matters related to age limit provisions. Through its jurisprudence, the Court has elucidated the constitutional principles and considerations guiding its interpretation of age eligibility criteria. Key decisions by the Court have underscored the importance of balancing the need for experienced leadership with principles of democratic inclusivity and equality before the law.

#### *4.2. Judicial Interpretations and Jurisprudence*

The analysis of judicial interpretations and jurisprudence regarding age limit provisions for presidential and vice presidential candidates in Indonesia reveals significant insights into the legal dynamics and principles guiding these determinations.

Firstly, landmark rulings by the Constitutional Court have clarified and elaborated on the constitutional principles underlying age eligibility criteria. Through meticulous legal analysis and reasoning, the Court has elucidated the importance of balancing the need for experienced leadership with principles of democratic inclusivity and equality before the law. Key decisions by the Court have underscored the constitutional imperative to ensure that age limit provisions do not unduly restrict the pool of eligible candidates or infringe upon fundamental rights.

Secondly, the Court's jurisprudence has emphasized the contextual and evolving

nature of age limit determinations. Rather than adopting a rigid or inflexible approach, the Court has demonstrated a willingness to consider socio-political developments, changing societal norms, and democratic aspirations in its interpretations of age eligibility criteria. This dynamic approach reflects the Court's commitment to upholding constitutional principles while adapting to the realities of a vibrant and evolving democracy.

Thirdly, the Court's rulings have provided valuable guidance to policymakers, legal practitioners, and civil society actors regarding the interpretation and application of age limit provisions. By offering clear legal principles and considerations, the Court's jurisprudence has contributed to the transparency, predictability, and legitimacy of age eligibility criteria for presidential and vice presidential candidates.

#### *4.3. Challenges and Controversies*

The analysis of challenges and controversies surrounding age limit provisions for presidential and vice presidential candidates in Indonesia reveals several key findings.

Firstly, age limit provisions have sparked debates and controversies within the legal and political spheres regarding their compatibility with democratic principles and political participation. Critics argue that rigid age limits may disenfranchise younger individuals and stifle intergenerational dialogue, thereby undermining democratic representation and inclusivity. Conversely, proponents contend that age criteria serve as proxies for experience, maturity, and competence in leadership, thereby ensuring the stability and effectiveness of governance.

Secondly, challenges to age restrictions for presidential and vice presidential candidates have raised fundamental questions regarding the balance between constitutional principles and democratic values. Plaintiffs often invoke fundamental rights, equality before the law, and the principle of democratic representation as grounds for contesting the constitutionality of age restrictions. Judicial review proceedings provide a mechanism for scrutinizing the constitutionality and legality

of age limit provisions, thereby ensuring accountability and transparency in the electoral process.

Thirdly, age limit provisions have implications for broader socio-political dynamics, including generational transitions, political leadership, and governance effectiveness. The imposition of age restrictions on presidential and vice presidential candidates reflects societal perceptions of age and leadership, as well as historical and cultural factors shaping political norms and practices. Addressing these challenges requires a nuanced understanding of the complexities surrounding age eligibility criteria and their implications for democratic governance.

#### ***4.4. Societal Perspectives and Public Discourse***

The analysis of societal perspectives and public discourse surrounding age limit provisions for presidential and vice presidential candidates in Indonesia reveals several key findings.

Firstly, public discourse on age eligibility criteria reflects a diversity of opinions, attitudes, and perceptions regarding age and leadership. Media commentaries, public opinion surveys, and social media discussions offer insights into societal views on the role of age in political leadership, governance effectiveness, and democratic representation. While some advocate for flexible age criteria to accommodate diverse candidates and foster intergenerational dialogue, others emphasize the importance of experience, maturity, and stability in political leadership.

Secondly, societal perspectives on age limit provisions are shaped by historical, cultural, and socio-political factors that influence perceptions of age and authority in Indonesian society. Traditional notions of respect for elders, wisdom, and experience intersect with modern conceptions of meritocracy, innovation, and inclusivity in shaping attitudes towards age eligibility criteria for presidential and vice presidential candidates. Addressing these complexities requires a nuanced understanding of the

intersections between age, leadership, and governance effectiveness.

Thirdly, public discourse on age limit provisions underscores the importance of transparency, accountability, and public participation in shaping electoral eligibility criteria. Civil society actors, advocacy groups, and youth organizations play a crucial role in raising awareness, promoting dialogue, and advocating for reforms to age eligibility criteria that align with democratic principles and societal aspirations. By engaging in public discourse and civic engagement, stakeholders can contribute to a more inclusive and responsive electoral system.

Overall, the analysis of societal perspectives and public discourse highlights the complex interplay between age, leadership, and governance in Indonesian society. By critically examining public attitudes, media narratives, and social dynamics surrounding age limit provisions, stakeholders can foster a more inclusive and participatory democratic process that reflects the diversity and aspirations of the Indonesian people.

#### ***4.5. Policy Implications and Reform Debates***

The research highlights the policy implications of age limit provisions for presidential and vice presidential candidates, underscoring the need for continuous legal and political reform. Policy debates have centered on potential reforms to electoral eligibility criteria, including age restrictions, to align with democratic principles and societal aspirations. Proposals for reform include revisiting age limits in light of changing societal norms, enhancing transparency and accountability in candidate selection processes, and promoting youth participation in politics.

#### ***4.6. Future Directions and Recommendations***

Looking ahead, the research identifies avenues for future research and policy interventions to address the complexities surrounding age limit provisions for presidential and vice presidential candidates. Future research could explore the intersection of age criteria with other eligibility

requirements, the impact of technological advancements on political leadership, and the role of youth activism in shaping electoral reforms. Moreover, policymakers are urged to engage in dialogue and collaboration to ensure that age eligibility criteria align with constitutional principles, democratic values, and societal aspirations.

## 5. CONCLUSION

In conclusion, this research has illuminated the intricate dynamics surrounding age limit provisions for presidential and vice presidential candidates in Indonesia. Through a comprehensive analysis of constitutional provisions, judicial interpretations, societal perspectives, and public discourse, several key findings have emerged. Firstly, the examination of the constitutional framework reveals the minimum age requirement established in Article 6A of the 1945 Constitution, reflecting the framers' intent to balance experienced leadership with democratic representation and inclusivity. Subsequent amendments and judicial interpretations have brought clarity and legal certainty to age eligibility criteria, contributing to the stability and integrity of Indonesia's democratic governance. Secondly,

challenges and controversies surrounding age limit provisions highlight tensions between constitutional principles and democratic values, emphasizing the need for ongoing dialogue, debate, and reform. Addressing these challenges requires a nuanced understanding of the legal, political, and societal dimensions of age eligibility criteria, alongside a commitment to upholding democratic principles and inclusivity. Thirdly, societal perspectives and public discourse reflect diverse opinions on age and leadership, with some advocating for flexible age criteria to accommodate diversity and foster dialogue, while others prioritize experience and stability. Engaging in public discourse and civic engagement is essential for fostering a more inclusive and responsive electoral system that mirrors the aspirations of the Indonesian people. Overall, this research contributes to a deeper understanding of the complexities surrounding age limit provisions for presidential and vice presidential candidates, facilitating a more inclusive and participatory democratic process that upholds constitutional principles and enhances governance effectiveness in Indonesia.

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